

**GUIDE: NEW YORK STATE'S NEW SMALL DONOR PUBLIC FINANCING PROGRAM**

**December 18, 2020**

On April 3, 2020, New York enacted a groundbreaking campaign finance reform: a voluntary program of small donor public financing for state elections. This program will provide a multiple match on small contributions from New York residents to candidates who opt in. Its innovative design gives candidates the chance to raise competitive amounts based on modest contributions from constituents. It is the most powerful legislative response enacted anywhere in the country to the 2010 Supreme Court decision *Citizens United*, which supercharged big money in politics. The new public financing program will help more New Yorkers to be heard in the political process at a time when the need has never been greater. This overview explains how the program will work.\*

**The Basics**

**Summary:** The new public financing program will allow candidates for state legislature and statewide offices who opt in to receive a multiple match on small contributions they raise from constituents, if they first prove their eligibility and abide by the program's rules. The size of the match and maximum amount of public matching funds a candidate can receive vary by office. If they reach their public financing maximum, candidates may continue to raise unmatched private contributions. The new law reduces contribution limits for all candidates, whether or not they participate in public financing. The new Public Campaign Finance Board (PCFB) oversees the program.

**When does the program start?** Candidates may begin raising matchable contributions starting November 9, 2022 for the 2024 legislative and 2026 statewide elections. (Creation of rules, technology, and candidate-support services needs to start now, to enable a smooth start on the statutory timeframe.)

**Which offices are eligible?** Governor, Lieutenant Governor, Attorney General, Comptroller, Senate, Assembly.

**Which contributions can be matched?** Only contributions of \$5-\$250 by people who live in New York are matchable with public funds — and for legislative candidates, a matchable contribution must come from in-district. To be matched for use in a particular election, a contribution would need to be made in that same election cycle but not later than the relevant primary or general election day. For the 2024

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\* The legislation creating the public financing program included restrictions on ballot access for parties and candidates. Those restrictions are not necessary for the public financing program to operate and are not summarized in this memo.

general election, for instance, the period for collecting matchable contributions would begin November 9, 2022, and end November 5, 2024. Contributions ineligible for matching include contributions by corporations and any others not made by natural persons, in-kind contributions, contributions that are not itemized, and contributions from lobbyists or campaign vendors.

**How can candidates begin to participate?** The deadline to opt in is four months before the primary. Before they may receive any matching funds, candidates must agree to meet the program’s requirements, including obtaining a place on the ballot, and first raise a certain amount in private donations from constituents to show they have sufficient public support. For legislative candidates, that minimum fundraising threshold is lower for lower-income districts. The following chart shows the minimum fundraising thresholds in detail.

**Chart: Minimum Fundraising Thresholds to Qualify for Public Matching Funds**

Office	Minimum Fundraising Threshold to Qualify*	Reduced Thresholds for Lower-Income Districts
Governor	\$500,000, including at least 5,000 matchable contributions	N/A
Lt. Governor, Attorney General, Comptroller	\$100,000, including at least 1,000 matchable contributions	N/A
Senate	\$12,000, including at least 150 matchable contributions	\$8,000, including at least 150 matchable contributions
Assembly	\$6,000, including at least 75 matchable contributions	\$4,000, including at least 75 matchable contributions

*\*The first \$250 of a larger contribution may count toward the minimum dollar amount if the contribution would otherwise be matchable.*

**What are the new contribution limits?** The new law reduces contribution limits for *all* candidates, whether or not they participate in public financing. Publicly financed candidates may accept private contributions up to the legal limit, but contributions over \$250 will not be matched. The following chart explains the new contribution limits.

**Chart: Current and New Contribution Limits, by Office**

Office	Current Limits	New Limits (effective Nov. 2022)
<b>Statewide</b>	Up to \$69,700/cycle (as much as \$22,600 primary; \$47,100 general)	\$18,000/cycle (\$9,000 per primary/general)
<b>Senate</b>	\$19,300/cycle (\$7,500 primary; \$11,800 general)	\$10,000/cycle (\$5,000 per primary/general)
<b>Assembly</b>	\$9,400/cycle (\$4,700 per primary/general)	\$6,000/cycle (\$3,000 per primary/general)

**What is the size of the public funds match?** Candidates who qualify receive a multiple match of public funds for the matchable small contributions they raise. The program includes a progressive, tiered match for legislative candidates that provides the highest match for the smallest portion of a

contribution, so that even modest contributions are meaningful to campaigns. The following chart explains the public funds match.

**Chart: Public Funds Match, by Office**

Office	Match
Statewide	\$6-to-\$1 (\$6 of public funds for \$1 in matchable contributions)
Legislative	<ul style="list-style-type: none"> <li>• First \$50: \$12-to-\$1</li> <li>• Next \$100: \$9-to-\$1</li> <li>• Last \$100: \$8-to-\$1</li> </ul>

**How much public funding can candidates earn?** To contain costs, the program limits the total amount of public funds any one candidate can receive. Many candidates may not reach these limits, because they must first do the work of raising the private contributions to be matched. And if a candidate “maxes out” on matching funds, they can still keep raising unmatched private funds (with the same individual contribution limits as all candidates). The following chart details the maximum amount of public funds candidates for each office can raise.

**Chart: Maximum Public Funds, by Office**

Office	Primary Maximum	General Maximum
Governor	\$3.5 million	\$3.5 million (combined with Lt. Governor)
Lt. Governor	\$3.5 million	\$3.5 million (combined with Governor)
Attorney General, Comptroller	\$3.5 million	\$3.5 million
Senate	\$375,000	\$375,000
Assembly	\$175,000	\$175,000

The program puts other cost-control limits on the amount of matching funds a candidate can receive:

- **Unopposed candidates:** Candidates without an opponent in a given race will not receive matching funds, except in a primary if a major party has a contested race for the same office. In that case, the maximum the unopposed candidate can earn is half the usual limit for the primary.
- **Small primaries:** In primaries with fewer than 1,000 eligible voters, the maximum a candidate can earn in matching funds is \$5,000.
- **Uncompetitive races:** If a candidate’s opponent is not “competitive,” per criteria to be set in regulation, the maximum that candidate may earn is 25% of the usual limit for that office.

**Receiving and Using Public Matching Funds**

**When do matching funds payments begin?** For candidates who qualify and report matchable contributions, matching funds payments for the primary start as early as thirty days after designating

petitions or certificates of nomination have been filed, and payments for the general start as early as the day after the primary.

**How often do candidates receive matching funds?** The Public Campaign Finance Board authorizes matching funds payments after reviewing candidates' disclosure reports, which are filed on a schedule to be set by regulation. Participants may choose to submit their reports as often as every week, to receive payments more frequently.

**What are acceptable uses of matching funds?** Public matching funds may be used only for campaign expenses. Participating candidates may use private campaign contributions for other lawful purposes.

**Can candidates who participate in public financing spend funds they raised in previous campaigns?** Yes, they can spend funds raised in previous campaigns, but they may not use those funds to meet their minimum fundraising threshold to be eligible for public financing or to receive matching funds.

### Program Administration and Funding

**Who oversees the program?** The Public Campaign Finance Board, composed of the four commissioners of the State Board of Elections and three new members, oversees the program. The PCFB and its staff have the following duties:

- **Review disclosure reports**, to determine candidate eligibility for matching funds and monitor compliance. Candidates can respond to concerns and correct errors.
- **Provide candidate support**, including trainings, technology to ease participation and compliance, and candidate liaisons to help each participating campaign understand and use the program.
- **Issue rules and regulations**, to spell out the program's implementation and operation. Regulations must be decided by July 1, 2021, to ensure enough time to design technology and trainings for candidates to start participating the next year.
- **Conduct reasonable post-election audits**, to troubleshoot administration problems and ensure compliance.
  - **Statewide races and top earners:** All publicly funded statewide candidates and any candidate who earns \$500,000 or more in public matching funds will undergo an audit, along with their opponents for fairness.
  - **Legislative races:** An objective lottery will select up to one third of publicly financed legislative candidates and their opponents to audit, with lower odds of selection for districts most recently audited. The selective, rather than universal, audit promotes compliance while reducing the burden on campaigns.
- **Hold hearings**, so candidates have the opportunity to be heard about compliance issues.
- **Report to the Legislature**, analyzing the effect of the public financing program and recommending improvements based on experience.

**How is the program funded?** The program is funded through a \$40 tax check-off (up to \$80 for joint returns), the abandoned property fund, contributions from individuals and organizations, and the general fund.